



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

Agenda Item # 28

Prepared By:

Planning Manager

Approved By:

CDD Director

Submitted By:

City Manager

**ZONING AMENDMENT, ZA-02-16: DEWITT – MARQUEZ, SUBDIVISION,
SD-02-11: DEWITT – MARQUEZ AND SUBDIVISION SD-03-05: DEWITT –
MARRAD GROUP**

RECOMMENDED ACTIONS:

1. Reconvene/close Public Hearing
2. Waive the reading in full of the Zoning Amendment Ordinance
3. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
4. Adopt Resolution approving the Five Lot Tentative Map (Marquez).
5. Adopt Resolution approving the Four Lot Parcel Map (Marrad Group)

EXECUTIVE SUMMARY: The applicant is requesting approval of a Zoning Amendment to expand an existing Residential Planned Development (RPD) and a Precise Development Plan for a 5 lot, 9.45 acre area located on the west side of DeWitt Avenue 700 feet south of the intersection with W. Dunne Ave. The applicant received approval for Development Agreement DA-03-05 and an amendment to DA-02-09 at the December 3 Council meeting. Also requested is approval of two amended subdivision maps. Application SD-02-11 is a subdivision of a two acre parcel into 5 residential lots. Application SD-03-05 is a subdivision of an adjacent two acre parcel into four residential lots. The two subdivision maps are identified as lots 1 through 5 and 15 through 18 on the attached Precise Development Plan.

The Commission considered the Zoning Amendment and Subdivisions at their October 14, 2003 meeting and voted 5-2 to recommend approval of the RPD with minor modifications. Several residents of adjacent homes expressed concern at the meeting in regards to the extension of Price Drive between John Telfer Drive and DeWitt Avenue. The Council considered the Zoning Amendment at their regular meetings of November 5, 2003 and December 3, 2003. At the December 3rd meeting, the subdivision maps were reviewed and area residents again expressed concern and opposition to the extension of Price Drive to connect John Telfer Drive to DeWitt Avenue. An alternative street pattern was proposed to address the residents concerns regarding the Price Drive extension. Council approved the conceptual design of the RPD and continued the Zoning and Subdivision applications to the December 17th meeting, directing the applicant to revise the Precise Development Plan and proposed Tentative Maps to show the modified street and lot design and directing staff to review the revised plans and prepare a recommendation for December 17th.

Staff has reviewed the proposed revised Precise Plan, which indicates a combination of a cul-de-sac (DeWitt Court) and realignment of Price Drive to make a 90-degree turn to the north with a temporary street stub at the southern boundary of APN 773-08-013 (see revised Precise Plan, attached to this staff report). Parcels 773-08-012 and 013 to the north will eventually be developed and Price Drive extended to DeWitt Avenue. In the interim period, the revised street design would result in an increase in the length of the existing cul-de-sac from John Telfer to Price Drive from 1,270 feet to approximately 1,500 feet in length and require that Lot 18 (Custom Lot 4) and Lot 5 gain access to the City street system from John Telfer Drive.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1310 WHICH PREZONED 9.45 ACRES LOCATED ON THE WEST SIDE OF DEWITT AVENUE NORTH OF SPRING AVENUE FROM COUNTY HS, HILLSIDE TO CITY R-1 (12000)/SINGLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 21-LOT, 9.45-ACRE RESIDENTIAL PLANNED DEVELOPMENT (APNs 773-08-012 through -016)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- SECTION 4.** The City Council finds that the proposed RPD and Precise Development Plan are consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves the Precise Development Plan as contained in that certain series of documents date stamped December 11, 2003, on file in the Community Development Department, entitled "Lands of Marrad" prepared by MH Engineering Co. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Approval of the Marrad/DeWitt Landowners RPD and Precise Development Plan shall allow the following deviations from the R-1(12,000) zoning district in order to provide for clustering on the gently sloping easterly portions of the project site and reduce the density of development on the more steep westerly portions of the project site:

Lot No.	Setbacks	Lot Size
1	6-foot left side yard setback	9,651 square feet
2	Five-foot side yard setbacks – both yards	9,878 square feet
3	Five-foot side yard setbacks – both yards	10,536 square feet
4	7 ½-foot right side yard setback	10,249 square feet
5	Ten foot side yard setbacks – both yards	--
6	--	9,261 square feet
7	--	9,788 square feet
8	--	10,396 square feet
9	--	10,197 square feet
11	--	10,373 square feet
12	--	9,052 square feet

SECTION 7. With the exception of the deviations allowed under Section 6 of this Ordinance, buildout of the Marrad/DeWitt Landowners project shall comply with the site development standards of the R-1(12,000) zoning district. Any additions/modifications to the approved building plans shall also comply with the site development standards of the R-1(12,000) zoning district.

SECTION 8. The Residential Planned Development shall be subject to the following conditions:

1. Lot 18 of the RPD (Custom Lot 4) shall be subject to the Hazardous Vegetation Program administered by the Fire Marshall's Office, Santa Clara County Department of Agriculture and Resource Management.
2. Upon annexation into the City, Lot 18 of the RPD (Custom Lot 4) shall be subject to the City's Weed Abatement Ordinance, Municipal Code Chapter 8.20, which specifies that the property owner shall remove or destroy weeds from his property and that the Council may order the Fire Department to abate the weeds to maintain the lot free of hazardous vegetation. The developer has agreed to maintain the lot and remove all hazardous vegetation.
3. The proposed streets shall be platted to provide sufficient distance between the DeWitt Court cul-de-sac and the 90-degree Price Drive "knuckle" to allow landscape screening between the two streets.

SECTION 9. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 10. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A FIVE (5) LOT SUBDIVISION CONSISTING OF FIVE (5) SINGLE-FAMILY RESIDENTIAL LOTS ON A TWO ACRE PORTION OF A 9.45 ACRE RESIDENTIAL PLANNED DEVELOPMENT PROJECT SITE LOCATED ON THE WEST SIDE OF DEWITT AVE., 700 FT. SOUTH OF THE DEWITT AVENUE INTERSECTION WITH WEST DUNNE AVENUE. (APN 773-08-014) (APPLICATION SD 02-11: DEWITT – MARQUEZ)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 23, 2003 and continued to the October 14, 2003 regular meeting at which time application SD-02-11: DeWitt – Marquez was approved; and

WHEREAS, pursuant to Section 17.20.110 of the Morgan Hill Municipal Code, the City Council, at its November 5, 2003 meeting voted to schedule a public hearing and separate action on this subdivision application and continued the item to the regular meeting of December 3, 2003; and

WHEREAS, such request was considered by the City Council at their regular meeting of December 3, 2003 at which time the Council determined to select a street design modified from that which was recommended for approval by the Planning Commission to address concerns over increased vehicle trips and speeds with the direct alignment and continued to the regular meeting of December 17, 2003; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials, have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An expanded environmental initial study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration will be filed.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

SECTION 5. The approved project shall be subject to the mitigation measures as identified in the Mitigated Negative Declaration and Expanded Environmental Initial Study prepared for the project in August 2003.

SECTION 6. Development of parcel APN 773-08-014 shall proceed in accordance with the following standards:

- 1) The left side yard of Lot 1 shall have a 6-foot setback, both side yards of Lots 2 and 3 shall have 5-foot setbacks, the right side yard setback on Lot 4 shall be 7 ½ feet and both side yards of Lot 5 shall have 10-foot setbacks.
- 2) Lot 1 shall be 9,651 square feet; Lot 2 shall be 9,878 square feet, Lot 3 shall be 10,536 square feet, Lot 4 shall be 10,249 square feet, and Lot 5 shall be 21,366 square feet.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A 4 LOT SUBDIVISION CONSISTING OF 4 SINGLE-FAMILY RESIDENTIAL LOTS ON A TWO ACRE PORTION OF A 9.45 ACRE RESIDENTIAL PLANNED DEVELOPMENT PROJECT SITE LOCATED ON THE WEST SIDE OF DEWITT AVE., 700 FT. SOUTH OF THE DEWITT AVENUE INTERSECTION WITH WEST DUNNE AVENUE. (APN 773-08-015) (APPLICATION SD 03-05: DEWITT – MARRAD)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 23, 2003 and continued to the October 14, 2003 regular meeting at which time application SD-02-11: DeWitt – Marquez was approved; and

WHEREAS, pursuant to Section 17.20.110 of the Morgan Hill Municipal Code, the City Council, at its November 5, 2003 meeting voted to schedule a public hearing and separate action on this subdivision application and continued the item to the regular meeting of December 3, 2003; and

WHEREAS, such request was considered by the City Council at their regular meeting of December 3, 2003 and continued to the regular meeting of December 17, 2003; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials, have been considered in the review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An Expanded Environmental Initial Study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of Standard Conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

SECTION 5. The approved project shall be subject to the mitigation measures as identified in the Mitigated Negative Declaration and Expanded Environmental Initial Study prepared for the project in August 2003.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

**GENERAL PLAN AMENDMENT GPA-03-05, URBAN SERVICE AREA USA-03-05,
ZONING AMENDMENT ZA-03-17: BURNETT-MHUSD SOBRATO HIGH SCHOOL
RECOMMENDED ACTION(S):**

1. Open/close Public Hearing.
2. Adopt Resolution approving General Plan and Urban Growth Boundary Amendment.
3. Adopt Resolution approving Urban Service Area Amendment
4. Waive the First and Second Reading of Ordinance for Prezoning.
5. Introduce Ordinance.

EXECUTIVE SUMMARY: A request to amend the Urban Growth Boundary and Urban Service Area for three parcels totaling 27.8 acres on the north side of Burnett Avenue east of Monterey Road. In order to amend the Urban Growth Boundary, two of the parcels (725-01-012 & 013) will need their General Plan land use designation changed from Rural County to Public Facilities and will need to be rezoned PF, Public Facilities. The third parcel (725-01-025) which is 0.7-acres and contains an existing single-family home has a General Plan land use designation of Single-Family Medium. The third parcel will need to be pre-zoned R1-7,000.

In July 2002, the City, the Morgan Hill Unified School District, and the City of San Jose entered into an agreement in which the City would provide services to the Sobrato High School site on Burnett Avenue. The School District agreed to move the school buildings out of the existing greenbelt onto parcels 725-01-012 & 013 and use the land in the San Jose Greenbelt for athletic fields. Parcel 725-01-021, which is west of the Sobrato High School site, is not part of the high school site. That parcel is 28,749 sq. ft. and has an existing single-family home. Parcel 725-01-021 is included in the Urban Growth Boundary amendment and Urban Service Area amendment because it will be surrounded on all sides by the City and inclusion will avoid the creation of an unincorporated island. To complete the High School agreement, the following actions are recommended:

1. Amend the Urban Growth Boundary to include parcels 725-01-012, 013, & 021.
2. Amend the General Plan for parcels 725-01-012 and 013 to Public Facilities.
3. Amend the Urban Service Area to include parcels 725-01-012, 013, & 021.
4. Prezone parcels 725-01-012 & 013 PF, Public Facilities and prezone parcel 725-01-021 R1-7,000.

The Planning Commission considered the above request at their December 2 meeting and unanimously voted to recommend approval of each requested action. A copy of the December 2 staff report and minutes are attached for the Council's reference. The December 2 Planning Commission staff report contains a more detailed discussion of the proposed boundary adjustments, prezone and General Plan amendment.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 29

Prepared By:

Associate Planner

Approved By:

**Director of Community
Development**

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA 03-05: BURNETT-MHUSD SOBRATO HIGH SCHOOL AMENDING THE LAND USE DESIGNATION ON TWO PARCELS TALLING 27.1-ACRES LOCATED ON THE NORTH SIDE OF BURNETT AVE APPROXIMATELY 1900 FEET EAST OF MONTEREY RD. FROM RURAL COUNTY TO PUBLIC FACILITY (APN 725-01-012 & 013) AND APPROVING AN AMENDMENT TO THE URBAN GROWTH BOUNDARY LOCATION TO INCLUDE 27.8-ACRES ON THE NORTH SIDE OF BURNETT (APNS 725-01-012, 013, & 021)

WHEREAS, the City Council at their regular meeting of December 17, 2003, considered the General Plan amendment GPA-03-05: Burnett-MHUSD Sobrato High School, a request to amend the land use designation on a 27.1-acre area, from Rural County to Public Facility and a request to amend the location of the Urban Growth Boundary to include 27.8 acres east of the existing Urban Growth Boundary on the north side of Burnett Avenue; and

WHEREAS, the City Council received and considered testimony at a duly noticed public hearing; and

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The General Plan amendment is consistent with the provisions of the General Plan.

SECTION 2. An Environmental Impact Report has been certified by the Morgan Hill Unified School District Board of Education for parcel 725-01-012 and 013.

SECTION 3. A negative declaration has been approved for parcel 725-01-021.

SECTION 4. The land use designation and zoning on parcels 725-01-012 and 013 shall not be changed to residential unless done in accordance with Municipal Code section 18.62.070 C.

SECTION 5. The City Council approves the amendment of the Urban Growth Boundary per the recommendation of the Urban Limit Line Advisory Committee.

SECTION 6. The General Plan shall be amended as shown in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING APPLICATION USA-03-05: BURNETT-MHUSD SOBRATO HIGH SCHOOL ALLOWING FOR THE INCLUSION OF 27.8 ACRES LOCATED ON THE NORTH SIDE OF BURNETT AVENUE EAST OF MONTEREY ROAD INTO THE CITY'S URBAN SERVICE AREA. (APNs 725-01-012, 013, & 021)

WHEREAS, such request was considered by the City Council at their regular meeting of December 17, 2003 at which time the City Council approved Urban Service Boundary application USA 03-05: Burnett-MHUSD Sobrato High School; and

WHEREAS, the Morgan Hill City Council has adopted policy 19e of the General Plan, which encourages cooperation with the City of San Jose and the Morgan Hill Unified School District to insure high quality education experience for school age children by providing adequate and safe school facilities, preventing overcrowding, and providing school locations convenient to the population served;

WHEREAS, the Morgan Hill City Council has adopted a policy defining "Desirable Infill" as specified in Morgan Hill Municipal Code Section 18.78.070; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the inclusion of the parcels 725-01-012 and 013 into the Urban Service Area boundary will further the City's fulfillment of its General Plan goal policy to insure a high quality education experience for school age children by providing adequate and safe school facilities, preventing overcrowding, and providing school locations convenient to the population served. The City Council recommends readjustment of the Morgan Hill Urban Service Area boundary to include parcels 725-01-012 and 725-01-013 as shown in Exhibit A.

SECTION 2. The City Council finds that the proposed inclusion of parcel 725-01-021 as shown in Exhibit A into the Urban Service Areas is consistent with the General Plan and Desirable Infill policy defined by Morgan Hill Municipal Code Section 18.78.070 B and would prevent the creation of an unincorporated island within the City.

SECTION 3: An Environmental Impact Report has been certified by the Morgan Hill Unified School District Board of Education for parcels 725-01-012 & 013.

SECTION 4: A negative declaration has been approved for parcel 725-01-021.

SECTION 5: It is hereby requested that the Local Agency Formation Commission consider readjustment of the Morgan Hill Urban Service boundary to include the area shown in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL PRE-ZONING 27.1 ACRES,
FROM COUNTY A-20 TO PUBLIC FACILITIES FOR
APNS 725-01-012 & 013 AND 0.7 ACRES FROM COUNTY
A-20 TO R1-7,000 FOR APN 725-01-021 FOR
APPLICATION ZA-03-17: BURNETT-MHUSD SOBRATO
HIGH SCHOOL**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES
HEREBY ORDAINS AS FOLLOWS:**

- SECTION 1.** Establish an Public Facilities pre-zoning designation for 27.1 acres of land for parcels 725-01-012 & 013 located on the north side of Burnett Avenue east of Monterey Road. The Public Facilities zoning designation shall become affective upon annexation to the City of Morgan Hill.
- SECTION 2.** Establish an R1-7,000 pre-zoning designation for 0.7 acres of land for parcel 725-01-025 located on the north side of Burnett Avenue east of Monterey Road. The R1-7,000 zoning designation shall become affective upon annexation to the City of Morgan Hill.
- SECTION 3. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled “Exhibit A” Map Showing Pre-zoning Lands of City of Morgan Hill Being a Part of Ordinance No. , New Series, which gives the boundaries of the described parcels of Land.
- SECTION 4. FINDING OF CONSISTENCY WITH THE GENERAL PLAN.** The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- SECTION 5.** An Environmental Impact Report has been certified by the Morgan Hill Unified School District Board of Education for parcels 725-01-012 & 013.
- SECTION 6.** A negative declaration has been approved for parcel 725-01-021.
- SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

DEVELOPMENT AGREEMENT, DA-03-10: COCHRANE – COYOTE ESTATES

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting approval of a project development agreement for 25 single-family homes within the Coyote Estates project currently under construction north of the intersection of Cochrane and Peet Roads. The proposed development agreement would cover Phases 8 through 10 of the Coyote Estates development. The Coyote Estates project began construction in 1994. Construction has been completed on 137 of 208 total planned home sites on approximately 69 acres. Phases 8 through 10 of the development received a total of 25 building allotments in the 2002 Measure “P” competition, including nine allotments for Fiscal Year 2004-05, eight allotments for Fiscal Year 2005-06, and eight allotments for Fiscal Year 2006-07. With completion of Phase 10, there will be a total of 162 units, with 16 below market rate units.

In accordance with established Council policy, all residential projects awarded building allotments through the Residential Development Control System (Measure P) must secure Council approval of a development agreement. Project development agreements are required as a formal contract between the developer and the City. The Development Agreement for the 25 building allotments awarded in the 2002 competition for Fiscal Years 2004-05; 2005-06; and 2006-07 is attached for Council review. The 2002 MP commitments and a development processing schedule have been included within the agreement. The project development schedule is contained in Exhibit B of the agreement. Staff recommends approval of the development agreement, as prepared.

The Planning Commission considered this application at the regular meeting of December 2nd at which time the Commission voted 5-0 (Commissioners Engles and Weston were absent) to recommend approval of the Development Agreement, as prepared. The Planning Commission staff report and minutes are attached for Council’s reference.

FISCAL IMPACT: None. Filing fees were paid to the City for the costs of processing this application.

Attachments:

1. Council Ordinance
2. Development Agreement
3. Planning Commission Staff Report, Minutes (12/2/03)

Agenda Item #30

Prepared By:

Planning Manager

Approved By:

**Director of Community
Development**

Submitted By:

City Manager

ORDINANCE NO. _____, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 03-10 FOR MP 02-14: COCHRANE – COYOTE ESTATES (APNS 728-35-008, 010; 728-36-001, 010)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution Nos. 03-17a and 03-17b, adopted May 27, 2003, has awarded allotments to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 02-14: Cochrane – Coyote Estates (Phases 8-10)	25 single-family homes

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not

affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

DEVELOPMENT AGREEMENT AMENDMENT DAA-00-05: MALAGUERRA - MANCIAS

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting an amendment to the development agreement for a 15-unit single-family project (13 Measure P units plus two replacement units), to allow for a one-year Exception to Loss of Building Allocation (ELBA).

The project, referred to as Coyote Creek Estates, is located south of Malaguerra Avenue and west of Silverwings Court. The project was awarded seven building allotments for FY 2001-02 and six allotments for FY 2002-03. In June 2002, the Council approved a six-month extension of time for the seven, Phase I units, extending the deadline to commence construction to December 30, 2002. In November 2002, the Council approved a second extension request, extending the deadline to commence construction of the seven, Phase I units to May 31, 2003 and the six, Phase II units to December 30, 2003. The applicant is currently requesting approval of a third extension request to extend the construction deadline for the six, Phase II units by one additional year. The seven, Phase I units are currently under construction. In the applicant's Letter of Request (attached for the Council's reference), the applicant explains that issues with on- and off-site improvements have caused significant delays in the development process.

Since the time of the last extension approval (November 2002), the applicant has been working diligently to resolve design issues for Malaguerra Avenue. According to Public Works records, activity has been recorded for the project between the months of November 2002 and June 2003. Since June 2003, the applicant has been working with PG&E to resolve additional off-site improvement issues. The extended processing of the improvement plans has caused delays in the project and poses a financial hardship on the developer. As a result, the applicant is requesting additional time to commence construction of the six, Phase II units.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allocation (E.L.B.A.) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

The Commission reviewed the applicant's request for a one-year extension of time at a special December 2 meeting. By a vote of 5-0 (with two members absent), the Commission recommended approval of a nine-month extension of time. The nine months represents the time period for which project delays were not the result of developer inaction, plus one additional month to allow the developer to stagger construction of the Phase I and Phase II units. A copy of the Commission staff report and minutes are attached for the Council's reference, as well as an Ordinance to approve the nine-month extension of time.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 31

Prepared By:

Associate Planner

Approved By:

Community
Development Director

Submitted By:

City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1597, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A NINE-MONTH EXTENSION OF TIME FOR SIX, PHASE II UNITS OF THE 15-UNIT DEVELOPMENT. (APNs 728-35-016 & -017)/(DAA-00-05: MALAGUERRA – MANCIAS)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Title 18, Chapter 18.78.125 of the Municipal Code, the Planning Commission and City Council respectively adopted Resolution No. 00-03 on March 14, 2000 and Resolution No. 5470 on May 2, 2001, and awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 99-26: Malaguerra-Ansuini/Mancias	7 units for FY 2001-02 6 units for FY 2002-03

SECTION 4. References are hereby made to a certain Agreement on file in the office of the City Clerk of the City of Morgan Hill.

This document, signed by the City of Morgan Hill and the property owner, sets forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The delay experienced by this project was due to excess time in processing of the improvement plans. The delays are not a result of the developer's inaction and therefore, a nine-month Exception to Loss of Building Allocation is hereby granted, extending the deadline to commence construction of the six, Phase II building allotments from December 30, 2003 to September 30, 2004.

SECTION 10. Exhibit B of the development agreement is amended to read as follows:

EXHIBIT "B"

**FY 2001-2002 (7 UNITS), FY 2002-2003 (6 UNITS)
DEVELOPMENT SCHEDULE MP-99-26: MALAGUERRA - ANSUINI/MANCIAS**

I.	SUBDIVISION AND ZONING APPLICATIONS Applications Filed:	November 21, 2000
II.	SITE REVIEW APPLICATION Application Filed:	April 27, 2001
III.	FINAL MAP SUBMITTAL Map, Improvements Agreement and Bonds:	October 1, 2001
IV.	BUILDING PERMIT SUBMITTAL Submit plans to Building Division for plan check: FY 2001-2002 (7 units) FY 2002-2003 (6 units)	January 15, 2002 June 15, 2003
V.	BUILDING PERMITS Obtain Building Permits: FY 2001-2002 (7 units) FY 2002-2003 (6 units) Commence Construction: FY 2001-2002 (7 units) FY 2002-2003 (6 units)	February 28, 2003 October 1, 2003 June 30, 2004 May 31, 2003 December 30, 2003 September 30, 2004

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit under Sections III. and IV., respectively, two (2) or more months beyond the filing dates listed above, shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV., respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least seven (7) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

DEVELOPMENT AGREEMENT AMENDMENT DAA-00-08: BERKSHIRE - SINGH

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
- 2a. Adopt Resolution to deny ELBA request
OR
- 2b. Waive the First and Second Reading of Ordinance to approve ELBA
- 3b. Introduce Ordinance to approve ELBA

EXECUTIVE SUMMARY: The applicant is requesting an amendment to the development agreement for a four-unit single-family project to allow for a six-month Exception to Loss of Building Allocation (ELBA).

The project, referred to as Krishna Park, is located at the northeast corner of Hale Avenue and Llagas Road. In April 2000, the applicant was awarded four building allotments. One building allotment was for FY 1999-2000; the remaining three allotments were for FY 2000-01. To date, the project has been granted four extensions of time, plus a 90-day ELBA which was initiated by the Commission. At the time of the last ELBA approval, the Commission highly encouraged the developer to proceed with the development in a timely manner and to request no further extension of time requests. Based on the last ELBA approval, construction of all four units is required to commence by December 30, 2004.

The applicant is currently requesting approval for an additional six months to commence construction of the four units due to extended processing delays of the final map and improvement plans (a copy of the applicant's Letter of Request is attached for the Council's reference). The final map and improvement plans are in final form; however, the applicant has been unable to supply the bonds and insurance necessary to record the final map. In addition, the building permit applications have remained inactive for over seven months, pending resolution of the bonds/insurance issue.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allocation (E.L.B.A.) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

The Commission reviewed the applicant's ELBA request at a special Dec. 2 meeting. By a vote of 4-1 (with two members absent), the Commission recommended denial of an extension of time due to the extended inactivity on the project, the unprecedented number of extension of time requests, and the Commission's previous statement discouraging further extension requests. A copy of the Commission staff report and minutes is attached for the Council's reference.

Since the Dec. 2 meeting, the applicant has been working to resolve the bonds/insurance issue. According to Public Works, the final map is now being processed for recordation. In addition, the applicant has submitted revised building plans addressing Staff's second round plan check comments. The applicant is working diligently to meet the December 30 deadline, however, is still seeking approval for additional time. Attached for the Council's consideration is a Resolution to deny the extension of time request, consistent with the Commission's recommendation. However, should the Council choose to grant an extension of time, an Ordinance granting a six-month ELBA is also attached.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 32

Prepared By:

Associate Planner

Approved By:

Community
Development Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING AN EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR A FOUR-UNIT MEASURE P PROJECT LOCATED AT THE NORTHEAST CORNER OF HALE AVENUE AND LLAGAS ROAD (APN 764-23-054)/(DAA-00-08: BERKSHIRE – SINGH)

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, the Planning Commission pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded three (3) building allotments for application MP-00-01: Berkshire - Singh for Fiscal Year 2000-01, and pursuant to the authority granted under City Council Resolution No. 5284, transferred/reallocated one (1) unused Fiscal Year 1999-2000 allotment originally awarded to application MP-99-07: W. Main - Coletto to application MP-00-01: Berkshire - Singh; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allotment (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, the City Council pursuant to Section 18.78.125.G of the Municipal Code granted a 90-day ELBA for the one (1) Fiscal Year 1999-2000 building allotment with the adoption of Resolution No. 5408, due to delays not the result of developer inaction. The delays were a result of the processing of the Coletto variance application and the reallocation of the unused building allotment; and

WHEREAS, on December 6, 2000, the City Council adopted Ordinance 1493 N.S. approving a development agreement for DA-00-08: Berkshire-Singh for application MP-00-01: Berkshire-Singh; and

WHEREAS, the City Council pursuant to Section 18.78.125.G of the Municipal Code granted a nine-month ELBA for the one (1) Fiscal Year 1999-2000 building allotment with the adoption of Resolution No. 5422, due to delays not the result of developer inaction; and

WHEREAS, the City Council pursuant to Section 18.78.125.G of the Municipal Code granted three subsequent extensions of time for all four building allotments with the adoption of Ordinance No. 1516, Ordinance No. 1568 and Ordinance No. 1622; and

WHEREAS, as part of the recommendation for approval of the last extension of time request, the Planning Commission strongly encouraged the developer to proceed with development in a timely manner and to request no further exceptions to the time limits imposed by the project Development Agreement; and

WHEREAS, a development agreement amendment is currently requested to allow for an additional six-month extension of time for all four units; and

WHEREAS, such request was considered by the City Council at their regular meeting of December 17, 2003, at which time the City Council denied Development Agreement Amendment application DAA-00-08: Berkshire - Singh; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has not submitted necessary planning applications to pursue development in a timely manner. Permit delays have occurred as a result of developer inaction. In addition, the current development agreement amendment application represents the fifth extension of time request for the four unit project. At the time of the last extension request, the Planning Commission strongly discouraged further exceptions to the Development Agreement time limits. Given the unprecedented number of extension requests and the Commission's statement discouraging further extensions of time, and based on the findings required in Section 18.78.125 of the Municipal Code, the City Council hereby denies the request for a six-month exception to loss of building allocation.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1622, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-01: BERKSHIRE - SINGH TO INCORPORATE A SIX-MONTH EXTENSION OF TIME FOR THE FOUR-UNIT PROJECT. (APN 764-23-054)/(DAA-00-08: BERKSHIRE - SINGH)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 01-17, adopted April 25, 2000, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-00-01: Berkshire - Singh	1 unit for FY 1999-2000
	3 units for FY 2000-2001

SECTION 4. References are hereby made to a certain Agreement on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The delay experienced by this project was due to excess time in processing of the final map and improvement plans. The delays are not a result of the developer's inaction and therefore, the Council hereby grants a six-month Exception to Loss of Building Allocation for the four building allotments, extending the deadline to commence construction from December 30, 2003 to June 30, 2004.

SECTION 10. Exhibit B of the development agreement is amended to read as follows:

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MP-00-01: BERKSHIRE - SINGH
FY 1999-2000 (1 UNIT), FY 2000-01 (3 UNITS)**

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	May 30, 2000
II.	SITE REVIEW APPLICATION	
	Application Filed:	November 1, 2000
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	November 15, 2000
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	
	FY 1999-2000 (1 unit)	March 24, 2003
	FY 2000-01 (3 units)	March 24, 2003
V.	BUILDING PERMITS	
	Obtain Building Permits:	
	FY 1999-2000 (1 unit)	September 30, 2003 March 31, 2004
	FY 2000-01 (3 units)	September 30, 2003 March 31, 2004
	Commence Construction:	
	FY 1999-2000 (1 unit)	December 30, 2003 June 30, 2004
	FY 2000-01 (3 units)	December 30, 2003 June 30, 2004

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Failure to submit a Final Map Application or a Building Permit Submittal, Sections III. and IV., respectively, six (6) or more months beyond the filing dates listed above, shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV., respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 2 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. ____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *December 17, 2003*

GPA 03-06/ZA 03-02 / DA 03-02: McLaughlin/Central-South County Housing (Jones)

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Approve Mitigated Negative Declaration
3. Adopt Resolution approving General Plan Amendment
4. Waive the First and Second Reading of Zoning Amendment Ordinance
5. Introduce Zoning Amendment Ordinance (roll call vote)
6. Waive the First and Second Reading of Development Agreement Ordinance
7. Introduce Development Agreement Ordinance (roll call vote)

Agenda Item # 33

Prepared By:

Senior Planner

Approved By:

Director of Community Development

Submitted By:

City Manager

EXECUTIVE SUMMARY: The City has received a request for approval of a general plan amendment to change the Multi family medium land use designation to Multi family low on a .30 acre portion of a 2.17 acre site located on the north east corner of the intersection of E. Central Ave. and McLaughlin Ave. Also requested is the approval of a 16 unit precise development plan and development agreement for a 5 unit single family attached project proposed on a .67 acre portion of the overall 2.17 acre site.

General Plan Amendment: Due to the small size (.30 acres) of the Multi-family Medium land area, and its configuration, it is difficult to meet the minimum Multi-family Medium density (14-21 du/ac) and provide the required on-site parking. The elimination of .30 acres would not violate the City's General Plan Housing Element policies because more than the minimum of 25 acres of vacant R-3 property would remain (June 2003 study concluded 30 acres of R-3 property). The change in land use designation to Multi-family Low would not have a significant effect on the City's ability to meet its multi-family housing goals. After reviewing various development scenarios, South County Housing has concluded that the elimination of the Multi-family Medium designation would result in a better development plan given the size and shape of the overall 2.17 acre development site.

Zoning Amendment: The zoning amendment application includes the rezoning of the .30 acre area from R-3 to R-2 RPD and the adoption of a precise development plan for the overall 2.17 acre site. The purpose of the RPD overlay district is to permit and encourage flexibility of site planning, including relaxation of development standards, when the proposed development will enhance the area. The proposed precise development plan consists of 4 duets, 2 triplexes and 2 single family detached homes. To cluster the units away from the railroad and provide the linear park area, the following variations from the R-2 3,500 development standards are requested through the RPD process: reduction in minimum lot size (1 lot, exceeds the 25% reduction by 235 sq. ft.), reduction in lot width (10 lots require 5 ft. reduction) and depth (10 lots require 2-8 ft. reduction), a 3-5ft. rear yard setback variation (3 lots require a 3-5 ft. reduction) and two of the proposed lots (13 & 14) do not have frontage on a public right of way.

Development Agreement: In accordance with established Council policy, all residential projects awarded building allotments through the Residential Development Control System (Measure P) must secure Council approval of a Development Agreement. The purpose of this agreement is to formalize the commitments made during the Measure P process, and to establish a development schedule and mechanism to monitor the progress of the project. Project specific commitments made during the Measure P process are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

The Planning Commission reviewed these applications at their December 9 meeting. The Commission voted 5-0-2 (Commissioners Engle & Weston absent) recommending Council approval. A copy of the Planning Commission staff report is attached for the Council's reference.

FISCAL IMPACT: No budget adjustment required

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A GENERAL PLAN AMENDMENT ON A .30 ACRE AREA OF APN 726-24-023 CHANGING THE LAND USE DESIGNATION FROM MULTI FAMILY MEDIUM TO MULTI FAMILY LOW. THE .30 ACRE AREA IS A POTION OF A .69 ACRE PARCEL LOCATED ON THE NORTH WEST CORNER OF THE INTERSECTION OF CENTRAL AVE. AND THE RAILROAD. (PORTION OF APN 726-24-023)

WHEREAS, the City Council of the City of Morgan Hill at a meeting of December 17, 2003, considered General Plan Amendment GPA 03-06, a request to amend the designation on a .30 acre area of a .69 acre site, from Multi-Family Medium to Multi-Family Low; and

WHEREAS, the City Council received and considered testimony at a duly noticed public hearing; and

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the provisions of the General Plan.

SECTION 2. An Initial Study has been prepared for this project. A Mitigated Negative Declaration will be filed

SECTION 3. The City Council hereby approves of the General Plan Amendment shown in attached Exhibit "A".

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🔒 CERTIFICATION 🔒

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT ON A .30 ACRE AREA OF APN 726-24-023 CHANGING THE ZONING DESIGNATION FROM R-3 TO R-2/RPD AND APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND PRECISE DEVELOPMENT PLAN FOR A 16 UNIT R-2 (3,500)/RPD MULTI FAMILY LOW DEVELOPMENT LOCATED ON THE EAST SIDE OF MCLAUGHLIN AVENUE, NORTH OF CENTRAL AVE. (APNS 726-24-006, 007, 022, 023 & 024)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.
- SECTION 4.** The City Council finds that the proposed RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves a precise development plan as contained in that certain series of documents series of documents dated October 21, 2003, on file in the Community Development Department, entitled "Development Plan for Central and McLaughlin" prepared by Ruggeri-Jensen-Azar & Associates. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and setbacks of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 7.** Any building additions within this RPD shall be subject to compliance with the base R-2(3,500) site development standards as contained in section 18.14 as amended in the Morgan Hill Municipal Code.

SECTION 8. The following modifications shall be included within the precise development plan:

1. Decorative open fencing shall be provided along the railroad tracks.
2. Application shall apply for vacation of the Central Ave. right-of-way between the railroad track and proposed cul-de-sac bulb.
3. The parking and pavement (both proposed and existing) at the end of the Central Ave. cul-de-sac shall be eliminated.
4. Significant amounts of the landscaping and continuation of the pedestrian path shall be included within the area at the end of the Central Ave. cul-de-sac.
5. The front lot line of lot 15 shall be moved forward to provide frontage on the cul-de-sac.
6. A minimum 4 ft. setback variation shall be provided between all attached units with the exception of the units proposed on lots 8 & 9.
7. Lots 1 shall maintain a 15 ft. rear yard setback.
8. Lot 3 shall maintain a 13 ft. rear yard setback and Lot 4 shall maintain a 10 ft. minimum rear yard setback.
9. Eliminate the secondary dwelling units on lots 1 & 2 unless other wise allowed through a subsequent amendment of the R-2 zoning code.

SECTION 9. The City Council hereby amends to the City Zoning Map as shown in attached exhibit A.

SECTION 10. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING
DEVELOPMENT AGREEMENT DA-03-02:
MCLAUGHLIN-JONES (APNS 726-24-006 & 007)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 00-17 adopted April 25, 2000, has awarded allotments to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP 00-03: McLaughlin-Jones	5 Single-Family Homes

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the Residential Development Agreement and Development Proposal approved by this ordinance (and attached hereto) are compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *December 17, 2003*

DEVELOPMENT AGREEMENT AMENDMENT DAA-02-07: SHAFER - BAMDAD

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting an amendment to the development agreement for a 15-unit single-family project to allow for a one-year Exception to Loss of Building Allocation (ELBA) for all 15 units, and to modify Paragraph 14 to allow for an alternate Measure P commitment.

Agenda Item # 34

Prepared By:

Associate Planner

Approved By:

Community
Development Director

Submitted By:

City Manager

The project, referred to as Tuscany Meadows, is located west of Hill Rd, at the terminus of Shafer Ave. The Tuscany Meadows project received seven allotments for FY 2003-04 and eight allotments for FY 2004-05. In accordance with the adopted development agreement, the applicant was required to submit plans to the Building Division for plan check by Sept. 30, 2003. Construction of the seven, Phase I units is required to commence by June 30, 2004, and construction of the eight, Phase II units is required to commence the following year. The applicant is requesting approval to extend these deadlines by one year due to permit processing delays (a copy of the applicant's Letter of Request is attached for the Council's reference).

As part of the Measure P application, the applicant committed to providing off-site improvements along the east side of Hill Rd, south of the project site. Plans for the Hill Rd improvements have been stalled due to the presence of a drainage ditch that requires permits from the Dept. of Fish and Game, Santa Clara Valley Water District and the Water Quality Control Board. The applicant is requesting a one-year extension of time to address these issues. Construction of the eight, Phase II units is not required to commence until June 30, 2005. However, the applicant has included these units in his extension request so that construction of both phases does not overlap and create financial hardship for the applicant. The applicant is also requesting to amend Paragraph 14 of the development agreement to allow the applicant to provide an alternate Measure P commitment, in lieu of the off-site improvements along Hill Rd.

Under Section 18.78.125.G of the Municipal Code, the City may grant an extension of time, or Exception to Loss of Building Allotment (ELBA) if it finds that *"the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing."*

The Commission reviewed the applicant's request for a one-year extension of time at a special December 2 meeting. By a vote of 5-0 (with two members absent), the Commission recommended approval of a nine-month extension of time for the seven, Phase I units, and a four-month extension of time for the eight, Phase II units. The nine months represents the time period for which project delays were not the result of developer inaction, plus four months to allow the developer to stagger construction of the Phase I and Phase II units. A copy of the Commission staff report and minutes are attached for the Council's reference, as well as an Ordinance to approve the extension of time.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1599, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-01-07: SHAFER – BAMDAD TO INCORPORATE A NINE-MONTH EXTENSION OF TIME FOR THE SEVEN, PHASE I UNITS AND A FOUR-MONTH EXTENSION OF TIME FOR THE SIX, PHASE II UNITS OF THE 15-UNIT DEVELOPMENT. (APN 728-10-005)/(DAA-02-07: SHAFER – BAMDAD)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-36, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-01-07: Shafer - Bamdad	7 units for FY 2003-04
	8 units for FY 2004-05

SECTION 4. References are hereby made to a certain Agreement on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The delay experienced by this project was due to excess time in processing of the improvement plans. The delays are not a result of the developer's inaction and therefore, the Council hereby grants a nine-month Exception to Loss of Building Allocation for the seven, Phase I units, extending the deadline to commence construction from June 30, 2004 to April 30, 2005, and a four-month extension of time for the eight, Phase II units from June 30, 2005 to October 31, 2005.

SECTION 10. AMENDMENT TO PARAGRAPH 14. The Council hereby approves an amendment to Paragraph 14(n)(iv) of the development agreement, as follows:

“Provide dedication and full street improvements across the Hill Road frontage of the Hufton property located at 17110 Rosetta Drive, including street widening, curb and gutter, *or provide alternate Measure P commitment subject to the review and approval of the Public Works Department. Alternate Measure P commitment(s) shall be of a Measure P point value and monetary value equal to or greater than the Hill Road frontage improvements described above.*”

SECTION 11. Exhibit B of the development agreement is amended to read as follows:

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MP-01-07: SHAFER - BAMDAD
FY 2003-2004 (7 UNITS), FY 2004-2005 (8 UNITS)**

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	August 26, 2002
II.	SITE REVIEW APPLICATION	
	Application Filed:	December 15, 2002
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	March 15, 2003
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	September 30, 2003 June 30, 2004
V.	BUILDING PERMITS	
	Obtain Building Permits:	
	FY 2003-04 (7 units)	March 31, 2004 December 31, 2004
	FY 2004-05 (8 units)	March 31, 2005 June 30, 2005
	Commence Construction:	
	FY 2003-04 (7 units)	June 30, 2004 April 30, 2005
	FY 2004-05 (8 units)	June 30, 2005 October 31, 2005

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit under Sections III. and IV., respectively, two (2) or more months beyond the filing dates listed above, shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV., respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least seven (7) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 17th Day of December 2003, and was finally adopted at a regular meeting of said Council on the Day of January 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. ___, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of January, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

SD 03-08/ZA 03-10: WATSONVILLE-SOUTH COUNTY HOUSING

RECOMMENDED ACTION(S):

1. Open Public Hearing and Continue to February 18, 2004.
2. Review and Discuss
3. Give Direction to Staff and Applicant Regarding Appropriate Project Modifications.

EXECUTIVE SUMMARY: At the November 19, 2003 meeting, the City Council requested that the above application for a 12-unit single-family duet project proposed on the northwest corner of Watsonville Road and Calle Sueno be placed on the agenda for public hearing. The project, commonly known as Watsonville Road Teacher Housing Project, is a Redevelopment Agency project with South County Housing (SCH) for the development of affordable ownership units targeting teachers working in Morgan Hill. The purpose of the public hearing was to allow the Council to review and discuss the development proposal, including project density and related exceptions to the City's zoning ordinance, and to receive public input on the project. In addition to discussing the exceptions, the Council also expressed an interest in re-visiting the project concept in general.

On September 4, 2002, the Agency was presented with a concept from SCH to develop seven for-sale duet homes on the site. At that meeting, staff was directed to work with SCH and develop a new concept with more units. The second concept, for 12-units, was presented and approved by the Agency on November 6, 2002, along with a \$1.2 million funding allocation.

In light of recurring concerns over the proposed project density, the Council may want to further consider the following issues:

- Should the density of the project be reduced to comply with the zoning?
- What are the financial implications of reducing the density?
- If the density is reduced, what becomes of the Measure P allocations committed to the project?
- Are some zoning exceptions more important to preserve than others?

SCH and staff will be prepared to provide information to the Council in its discussion of these and other issues at the meeting.

Attached to this report is a memo which outlines the proposed project and the exceptions to the City's zoning ordinance required to carry out the project.

FISCAL IMPACT: No budget adjustment required

Agenda Item # 35

Prepared By:

Senior Planner

Approved By:

**Director of Community
Development**

Submitted By:

City Manager



Memorandum

Date: DECEMBER 17, 2003

To: CITY MANAGER

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: SD 03-08/ZA 03-10: WATSONVILLE-SOUTH COUNTY HOUSING

REQUEST/BACKGROUND

At the November 19 meeting the Council requested that the 12 unit project proposed on the northwest corner of the intersection of Watsonville Rd. and Calle Sueno be agendaized for public hearing. The purpose of the public hearing was to allow the Council to review and discuss the development proposal.

CASE ANALYSIS

The precise development plan consists of 12, two story, single family attached units ranging in size from 1249 sq. ft. to 1469 sq. ft. Each unit has a two car garage which is accessible from an internal private drive aisle. The project is not proposing any vehicular access from Watsonville Rd. Each of the 12 units will be on individual parcels ranging in size from 1826 sq. ft. to 4304 sq. ft. The proposed density of the project is 12 .6 units/acre. The project proposes a common park area located on the west side of the project behind lots 9 & 10. The project will be affordable and restricted to police officers and school teachers working in Morgan Hill. The adjacent development to the north and west is currently developed with market rate R-2 3,500 single family attached homes. The lots sizes in the adjacent development range from 2934 sq. ft. to 4791 sq. ft. The density of the adjacent development is 7.5 units/acre.

The purpose of the RPD overlay district (Chapter 18.18 of the Municipal Code) is to permit and encourage flexibility of site planning with appropriate safeguards and controls for residential development, by allowing variations from the base zoning standards. Variations are allowed when in the opinion of the Planning Commission and approval of the Council, the proposed development will enhance the area in which it is proposed by exceptional design, and arrangement of buildings, provision of open space and landscaping the protection of the welfare and privacy of adjoining property or the construction and reservation of housing units for lower income or senior households.

In addition to the flexibility allowed in Section 18.18, Municipal Code Section 18.47.020 also allows for developer concessions or incentives if at least 20 percent of the total units are for very low or low income households. As mentioned earlier, the proposed project is affordable. Four of the units will be set aside for very low income buyers, 4 will be set aside for median income and four for moderate income buyers.

To pursue a 12 unit project, on the one acre site, the following zoning variations are required within the proposed RPD:

Setbacks:

1. Municipal Code Section 18.14.070 J, requires residential units fronting on an arterial to maintain a front yard setback of 30 ft. Units 1-4 fronting on Watsonville Rd. provide a 23 ft. front yard setback.
2. Municipal Code Section 18.14.070 F1 requires a front yard setback of 20 ft. (on non arterials). Units 5 and 8 facing Calle Sueno have 15 ft. front yard setbacks. Lots 9-12 have front yard setbacks of 8 ft. or less.

Street Access/Frontage:

3. Municipal Code Section 18.04.245 defines a lot as having frontage on a public street or an approved private street. Lots 9-12 do not have frontage on a public right of way or an approved private street.

Lot size and dimension:

4. Municipal Code Section 18.18.095 allows for variation in the minimum lot sizes in the R-2 and R-3 zoning district to be established through the RPD process. RE and R-1 zoning districts are restricted to a maximum reduction of 25 percent of the minimum base zoning requirement. R-2 developments approved through the RPD process have typically been held to a minimum lot size of 3,500 sq. ft. Allowing for the same 25 percent reduction would allow for minimum lot size a 2625 sq. ft. Lots 5-12, at 1,826-2,346 sq. ft. in size, exceed a 25 percent lot size reduction.
5. Municipal Code Section 18.14.060 C requires a minimum lot width of 40 ft. for single family attached units. All of the proposed lots do not meet the minimum lot width requirement of 40 ft. The proposed lot widths range from 21 to 39 ft.
6. Municipal Code Section 18.14.060 D requires a minimum lot depth of 85 feet. All of the proposed lots do not meet the minimum 85 ft. lot depth. The proposed lot depths range from 48-70 ft.
7. Municipal Code Section 18.14.060 F 2 requires a minimum rear yard setback of 15 ft. Lots 1-8 do not meet the 15 ft. rear setback requirement. The rear yard depth of lots 1-8 range from 3-8 ft.

8. Municipal Code Section 18.14.060 H requires a 15 ft. street side corner setback. Lots 6, 7 & 11 do not meet the 15 ft. corner side yard requirement. The street side corner setback for lots 6, 7 & 11 are 4.5', 4.5' & 5.0' respectively.
9. Chapter 17.34 of Municipal Code requires that all streets providing access to residential development shall meet public streets standards. The proposed driveway providing access to the residential development is 25 ft. wide and does not meet city's minimum standard of 48 ft. wide with sidewalk and parking on each side.

Parking:

10. Municipal Code Section 18.50.020 requires that single family homes (attached or detached) to provide 2 covered parking spaces per dwelling unit. A 20 ft. x 20 ft. driveway apron (as measured from the edge of the right of way) is also required. Each of the proposed units has 2 covered parking spaces but is not provided the 20 x 20 apron.

The Planning commission reviewed the proposed subdivision and precise development plan on October 28. The Commission voted 3-3 (no action) on the proposal. During the Planning Commission review of the project, concerns were expressed (by the public and the Commission) regarding project density, lack of on site visitor parking, and the overall number of zoning variations needed. A copy of the October 28 Planning Commission minutes are attached for the Council's reference.



**REDEVELOPMENT AGENCY/
CITY COUNCIL**
MEETING DATE: December 17, 2003

TRAIN DEPOT BUILDING RENTAL – CAFÉ Y'A BON

RECOMMENDED ACTION(S): 1) Open the Public Hearing; and 2) Adopt resolutions approving a lease Agreement (the "Lease") with Café Y'A Bon, An Espresso Bar LLC ("Y'A Bon") (attached), and 3) Authorize the Executive Director to execute a loan agreement (the "Loan") in the amount of \$20,295 with Y'A Bon, and do everything necessary to implement the Loan and related agreements.

EXECUTIVE SUMMARY: Last April, the Agency directed staff to negotiate a lease with Y'A Bon for the Agency's Train Depot Building at 17300 Depot Street (the "Building"). Y'A Bon's was one of two proposals received in response to the Agency's Request for Proposal. Y'A Bon plans to open a café and espresso bar initially targeting the daily CalTrain commuters and Farmer's Market patrons and later expanding hours beyond the required 30 hours per week, based on demand. The new café will serve prepared food and drink such as coffee, pastries, sandwiches, soup, gelato, salads, crepes, beignets, etc.

The Lease obligates the Agency to lease the Building to Y'A Bon for a period of 10 years (see attached). Over this period, Y'A Bon will pay a total of \$24,668 for rent. There are no required rent payments for the first year; starting with year two, the rent is \$.75 per square foot and increases by four percent annually through year 10. The Lease further obligates the Agency to contribute \$15,925 to the project's Tenant Improvement costs, including all required government permits. In addition, the Agency will make a 10-year, amortized, interest-free loan of \$20,295 to Y'A Bon for the purchase of business equipment for the café (see attached). The Loan will be secured by this same equipment.

Y'A Bon is required to begin construction within 16 weeks after the date of the Lease and estimates that it will open for business by May 2004. The Lease terms were negotiated with assistance from Council Member Sellers. Staff believes that the rent structure and loan appropriately reflect the risk involved in renting this building for the first time, since it is an unknown entity. Y'A Bon is expected to bring new vitality to the City's Train Depot Building and the Depot Street area of the downtown.

FISCAL IMPACT: The initial capital outlay for this project will be \$36,220. After the \$20,925 loan is repaid by year 10, the Agency's net investment will be \$15,925. While \$30,000 has been allocated in FY2003-04 specifically for this project, sufficient funds exist in the Agency's 317 Economic Development Budget to cover the additional \$6,220.

Agenda Item # 36

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

City Manager/
Executive Director

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL APPROVING A LEASE AGREEMENT
WITH CAFÉ Y 'A BON, AN ESPRESSO BAR, LLC**

RECITALS

WHEREAS, in order to effectuate the provisions of the Community Development Plan (the "Redevelopment Plan") for the Ojo de Agua Community Development Project (the "Project Area"), originally adopted by City Ordinance No. 552 on June 3, 1981, and as amended and restated by the Amendment to the Community Development Plan for the Ojo de Agua Community Development Project adopted by City Ordinance No. 1429 N.S. on May 5, 1999, the Morgan Hill Redevelopment Agency (the "Agency") proposes to enter into a lease agreement with Café Y 'A Bon, An Espresso Bar, LLC for a building at 17300 Depot Street in the City of Morgan Hill, California commonly known as the "Train Depot Building" (the "Property"). The lease includes a Tennant Improvement allowance of \$15,925 from the Agency to Café Y 'A Bon for the purpose of making improvements to the Property and for related required governmental permits;

WHEREAS, the City Council of the City of Morgan Hill has previously determined that the Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that there is a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. Among other things, the Project Area contains vacant and underutilized properties, properties which suffer from economic dislocation, deterioration or disuse, including depreciated or stagnant property values and impaired investments, and aged and obsolete buildings. Such conditions tend to further deterioration and disuse because of the lack of incentive to landowners and their inability to improve, modernize or rehabilitate their property while the condition of the neighboring property remains unchanged;

WHEREAS, the leasing of the Property is expected to implement the purposes of the Redevelopment Plan for the Project by preventing the spread of blight and deterioration within the geographical boundaries of the Project Area by causing the occupation of vacant buildings by private enterprise in accordance with the Redevelopment Plan. Leasing the Property will also make available activities which complement and enhance those provided by existing developed properties nearby and will provide employment opportunities for persons from the Project Area. These financial and other benefits to the Agency will enable the Agency to pursue other blight-preventing projects. The Agency will realize these financial and other benefits only if the Property is leased rather than allowing the property to remain vacant;

WHEREAS, Health and Safety Code Section 33433 requires that before any property of the Agency acquired in whole or in part with tax increment revenue is leased, such lease shall first be approved by the legislative body after public hearing;

WHEREAS, Health and Safety Code Section 33433 also requires that a Summary Report be made available for public inspection; and

WHEREAS, the Summary Report has been made available for public inspection in the manner required by Section 33433;

WHEREAS, notice of a joint public meeting to be held by the City Council and the Agency regarding the approval for the lease has been duly given in the manner required by law;

NOW, THEREFORE, based on the evidence presented to the City Council, including the written staff report and oral testimony in this matter, and the Summary Report prepared pursuant to Section 33433 of the California Health and Safety Code, the City Council does hereby find, determine, resolve and order as follows:

Section 1. The lease will assist in the elimination of blight in the Project Area and is consistent with the implementation plan for the Project Area adopted pursuant to Health and Safety Code Section 33490.

Section 2. The consideration for the lease is not less than the fair rental value of the Property at its highest and best use in accordance with the implementation plan for the Project Area.

Section 3. The City Council hereby approves the lease in the form attached and hereby authorizes the Agency to take such actions, perform such deeds and execute, acknowledge and deliver such instruments and documents as it deems necessary in connection therewith.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☛ CERTIFICATION ☛

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. MHRA - ____

**A RESOLUTION OF THE MORGAN HILL
REDEVELOPMENT AGENCY APPROVING A LEASE
AGREEMENT WITH CAFÉ Y 'A BON, AN ESPRESSO
BAR, LLC**

RECITALS

WHEREAS, in order to effectuate the provisions of the Community Development Plan (the "Redevelopment Plan") for the Ojo de Agua Community Development Project (the "Project Area"), originally adopted by City Ordinance No. 552 on June 3, 1981, and as amended and restated by the Amendment to the Community Development Plan for the Ojo de Agua Community Development Project adopted by City Ordinance No. 1429 N.S. on May 5, 1999, the Morgan Hill Redevelopment Agency (the "Agency") proposes to enter into a lease agreement with Café Y 'A Bon, An Espresso Bar, LLC for a building at 17300 Depot Street in the City of Morgan Hill, California commonly known as the "Train Depot Building" (the "Property"). The lease includes a Tennant Improvement allowance of \$15,925 from the Agency to Café Y 'A Bon for the purpose of making improvements to the Property and for related required governmental permits;

WHEREAS, the City Council of the City of Morgan Hill has previously determined that the Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that there is a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. Among other things, the Project Area contains vacant and underutilized properties, properties which suffer from economic dislocation, deterioration or disuse, including depreciated or stagnant property values and impaired investments, and aged and obsolete buildings. Such conditions tend to further deterioration and disuse because of the lack of incentive to landowners and their inability to improve, modernize or rehabilitate their property while the condition of the neighboring property remains unchanged;

WHEREAS, the leasing of the Property is expected to implement the purposes of the Redevelopment Plan for the Project by preventing the spread of blight and deterioration within the geographical boundaries of the Project Area by causing the occupation of vacant buildings by private enterprise in accordance with the Redevelopment Plan. Leasing the Property will also make available activities which complement and enhance those provided by existing developed properties nearby and will provide employment opportunities for persons from the Project Area. These financial and other benefits to the Agency will enable the Agency to pursue other blight-preventing projects. The Agency will realize these financial and other benefits only if the Property is leased rather than allowing the property to remain vacant;

WHEREAS, Health and Safety Code Section 33433 requires that before any property of the Agency acquired in whole or in part with tax increment revenue is leased, such lease shall first be approved by the legislative body after public hearing;

WHEREAS, Health and Safety Code Section 33433 also requires that a Summary Report be made available for public inspection; and

WHEREAS, the Summary Report has been made available for public inspection in the manner required by Section 33433;

WHEREAS, notice of a joint public meeting to be held by the City Council and the Agency regarding the approval for the lease has been duly given in the manner required by law;

NOW, THEREFORE, based on the evidence presented to the Agency, including the written staff report and oral testimony in this matter, and the Summary Report prepared pursuant to Section 33433 of the California Health and Safety Code, the Morgan Hill Redevelopment Agency does hereby find, determine, resolve and order as follows:

Section 1. The lease will assist in the elimination of blight in the Project Area and is consistent with the implementation plan for the Project Area adopted pursuant to Health and Safety Code Section 33490.

Section 2. The consideration for the lease is not less than the fair rental value of the Property at its highest and best use in accordance with the implementation plans for the Project Area.

Section 3. The Agency hereby approves the lease in the form attached and hereby directs its Executive Director and/or any other authorized officers to take such actions, perform such deeds and execute, acknowledge and deliver such instruments and documents as it deems necessary in connection therewith.

PASSED AND ADOPTED by the Morgan Hill Redevelopment Agency at a Special Meeting held on the 17th Day of December, 2003 by the following vote:

AYES: AGENCY MEMBERS:
NOES: AGENCY MEMBERS:
ABSTAIN: AGENCY MEMBERS:
ABSENT: AGENCY MEMBERS:

🔱 CERTIFICATION 🔱

I, **IRMA TORREZ, AGENCY SECRETARY**, do hereby certify that the foregoing is a true and correct copy of Resolution No. MHRA- ,adopted by the Morgan Hill Redevelopment Agency at a Special Meeting held on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

Agenda Item # 37

Prepared By:

**Dep Dir
PW/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager

COMMUNITY INDOOR RECREATION CENTER- SENIOR AND YOUTH BUILDING SPACES AND PROGRAMMING

RECOMMENDED ACTION(S):

Receive staff report on Senior and Youth Building Spaces and Programming Workshops

EXECUTIVE SUMMARY: On October 22, 2003 Council approved Schematic Design and directed staff to proceed with the Design Development Phase of the Architectural Design. However, with regard to the Senior and Youth building spaces, Council directed staff to hold workshops with our Senior and Youth groups to better define their specific building space needs and revise the building floor plan accordingly. Council also directed staff to discuss with the Seniors and Youth programming relative to their specific building spaces and throughout the IRC.

Staff held Senior and Youth Workshops on November 17 and 18, 2003. These workshops were very positive and constructive. They resulted in revised floor plans that met the expressed needs of both groups. Attached is Exhibits A-E illustrating the overall IRC floor plan and the specific building spaces within the Senior and Youth areas both before and after the workshops. Exhibit F illustrates how the building may be expanded in the future if additional space is needed for the Senior Multipurpose Room, Gymnasium, and Fitness areas.

Both the Seniors and Youth were very positive about reciprocal use of their spaces when not in dedicated use through programming. The computer spaces designed in both areas will be shared when not in dedicated use and offer great opportunity for multigenerational use.

Attached also is Exhibit G summarizing staff's discussion with the Seniors and Youth regarding programming within the IRC relative to these groups.

The project budget and schedule are attached as Exhibits H and I. The project is on schedule and within budget. The next report to Council will be in March 2004 for approval of Design Development.

FISCAL IMPACT: None at this time.



Date: December 10, 2003 Council Agenda 12/17/03; ITEM #_38_____

To: Morgan Hill City Council
Governing Board of the Morgan Hill Unified School District

Re: Joint Planning for City and School Facilities

From: City/School Liaison Committee

The Liaison Committee is pleased to recommend the formation of a Joint Planning Working Group on School and City Facilities.

At the Liaison Committee, we have discussed the future facilities needs of each agency. It is clear there are opportunities for cooperation that could reduce costs, enhance services, and provide benefits to the entire community.

We believe that a focused effort over the next 90 days can develop proposals for co-locating facilities, sharing existing facilities, or making land available for schools and community facilities.

The following specific issues should be addressed:

- The availability of land at Britton Middle School in the light of the opening of the high school and the closing of the Britton pool.
- The need to identify new locations for the City Corporation Yard and the District's Bus Yard.
- The need to identify a Library site.
- The need to master plan the Friendly Inn site including expansion of the El Toro Youth Center.
- The potential uses of the Outdoor Sports Complex (current Soccer Complex).
- Joint planning of future elementary school and neighborhood parks.

We recommend that the Board and the Council appoint two members each to serve on the Working Group, with an expectation that a report and recommendation would be provided for public review within 90 days. The effort would be staffed by District and City staff, with such consultant assistance as would be necessary. Costs would be shared based on the Working Group's analysis of the benefits received.

Steve Tate, Committee Member
City of Morgan Hill

Tom Kinoshita, Committee Member
Morgan Hill Unified School District

Larry Carr, Committee Member
City of Morgan Hill

Shellé Thomas, Committee Member
Morgan Hill Unified School District



CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

AGREEMENTS FOR FINANCIAL ADVISORY AND BOND COUNSEL SERVICES IN CONNECTION WITH POLICE FACILITY FINANCING

RECOMMENDED ACTIONS:

- 1) Authorize the City Manager, on behalf of the City, to enter into an agreement with RBC Dain Rauscher Inc. for financial advisory services
- 2) Authorize the City Manager, on behalf of the City, to enter into an agreement with Richards, Watson & Gershon for bond counsel/disclosure counsel services

EXECUTIVE SUMMARY:

The financing for the Police Facility acquisition will occur once the tenant improvements are completed and the City has accepted these improvements. Staff believes this completion and financing will occur in June 2004. The financing will be structured as a lease purchase and will provide approximately \$6.6 million, net of transaction costs, toward the purchase of the facility. Additional funds to be applied to this project will be previously collected police impact fees amounting to \$1.2 million and \$1.7 million in monies to be received by the City from the sale of land to the Redevelopment Agency.

FISCAL IMPACT:

The cost of financial advisory and bond counsel/disclosure counsel services will be paid only when and if the debt financing proceeds and closes. The cost of bond counsel/disclosure counsel will not exceed \$45,000, while the cost of financial advisory services will not exceed \$50,000.

Agenda Item # 39

Prepared By:

Finance Director

Submitted By:

City Manager